DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

July 6, 1992

ALL COUNTY LETTER NO 92-68

TO: COUNTY WELFARE DIRECTORS

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| REASON FOR THIS TRANSMITTAL        |
|                                    |
| [ ] State Law Change               |
| [ ] Federal Law or Regulation      |
|       Change                       |
| [ ] Court Order or Settlement      |
|       Agreement                    |
| [X] Clarification Requested by     |
|       One or More Counties         |
| [ ] Initiated by SDSS              |
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SUBJECT: DETERMINATION OF THE NEEDS OF INELIGIBLE ALIEN CHILDREN
           IN AFDC

REFERENCE: MANUAL OF POLICY AND PROCEDURES (MPP)
                SECTION 44-113-141
                ALL COUNTY LETTER (ACL) 91-71
                ALL COUNTY LETTER 92-01

The purpose of this letter is to clarify the issue relating to the determination of unmet needs of ineligible alien children in Aid to Families with Dependent Children (AFDC) cases.

In the emergency filing of regulations on this subject, effective August 1, 1991, MPP Section 44-113.141 contained the following language concerning the deduction from an aided parent's income to meet the needs of the ineligible alien child(ren) of that parent:

"The deduction shall be reduced by the net nonexempt income, if any, of the alien child."

Accompanying the emergency regulations was a continuation page [NA 272(8/91)] which contained a computation for determining the net countable income of the ineligible alien children. In the computation all income of all children is combined. Neither the regulation nor the computation addressed case situations which involve a child whose income meets or exceeds his/her needs.

The Department received testimony claiming that the use of the computation can result in the income of one child being applied to meet the needs of a sibling, if that child had income in excess of its own needs.

In our response to testimony, we stated that it was not the intent of the regulation to require the income of one child to be used to offset the needs of a sibling. The final regulations on

this subject, effective January 2, 1992, contained an amended version of MPP Section 44-113.141 which reads, in part, as follows:

"The maximum deduction shall be reduced by the net nonexempt income, if any, of the ineligible alien child(ren) up to the differential amount attributed to that child(ren) with income."

The purpose of this regulatory revision was to ensure that the income of an ineligible alien child is applied only up to the full needs of that child. The excess income of the child is not to be applied to the assistance unit (AU), needy siblings or to other individuals in the ineligible alien parent unit. As a part of the regulatory revision, a Handbook Section was added to the regulations to illustrate the computation of the unmet needs of ineligible alien children. However, neither the Handbook illustration nor the NA 276 Continuation Page addresses the situation where a child has income sufficient to entirely meet his/her needs.

As soon as we can, we will add handbook material and amend the NA 276 to address this situation. However, when the ineligible alien child, whose income is sufficient to meet the child's needs, is excluded from the computation, you can continue to use the NA 276.

In any case situation that involves the unmet needs of ineligible alien children, you should exclude from the computation the needs (MBSAC Differential of a child in versus out of the Ineligible Alien Parent Unit) and the income of any ineligible alien child whose income meets or exceeds his/her needs. Because this child has income sufficient to meet his/her needs, it is <u>not</u> a child subject to treatment under the Order in <u>Darces</u> v. <u>Woods</u>.

The following case example illustrates the correct computation of the unmet needs of ineligible alien children:

CASE DESCRIPTION

The Ineligible Alien Parent Unit consists of the Ineligible Alien Parent and two ineligible alien children in common with the aided parent. The AU consist of the aided parent and her separate child. The gross income of the Ineligible Alien Parent is $600. One ineligible child has net nonexempt income of $450. The other ineligible child has no income.

DETERMINATION OF UNMET NEED OF CHILD WITH INCOME

Net nonexempt income of child with income	$450
Needs of child with income	
MBSAC (3) (ineligible alien parent and 2 children)	694
MBSAC (2) (ineligible alien parent and 1 child)	560
MBSAC difference (child's need)	134
Unmet needs of the child with income	0

The income of the child who has income in excess of the child's needs cannot be pooled. If the child's income were less than the child's needs, then the income would be pooled in Computation #2 of the NA 276.

Since the child's income exceeds the child's needs, the child's income and needs are excluded from the computation of unmet needs of the ineligible alien children. The attached NA 276 contains the remainder of the computation for the case example.

If you have questions regarding this letter, please call the AFDC Policy Implementation Bureau at (916)651-2137 or ATSS 464-2137.

MICHAEL C. GENEST
Deputy Director
Welfare Program Division

NOTICE OF AC..ON
(Continued)

**Computation of Unmet
Needs of Aided Parent's Ineligible
Alien Children**

Notice Date : _____

Case
Name : _____

Number : _____

Month   _____   _____   _____

COMPUTATION 1, UNMET NEEDS BASED ON UNAIDED PARENT'S INCOME

Unaided Parent Unit's Needs

Basic Need for __2__ Persons	$ 560		
Special Needs	+ 0		
Subtotal A – Total Needs of Unit	=		

Unaided Parent's Net Income

Total Earned Income	$ 600		
Work Expense Disregard	- -90		
Other Countable Income (list sources)			
_____	+ _____		
_____	+ _____		
_____	+ _____		
Support Paid to Child or Former Spouse	- _____		
Support Paid to Other Dependents Not in the Home	- _____		
Subtotal B – Parent's Net Income	= 510		

Unmet Needs, Computation 1

Total Needs of Unit (Subtotal A)	$ 560		
Parent's Net Income (Subtotal B)	- 510		
Subtotal C - Unmet Needs, Computation 1	= 50		

COMPUTATION 2, UNMET NEEDS BASED ON CHILD(REN)'S INCOME

Ineligible Alien Child(ren)'s Net Income

Total Earned Income	$ 0		
Work Expense Disregard	- _____		
Other Countable Income (list sources)			
_____	+ _____		
_____	+ _____		
Subtotal D – Net Income of Child(ren)	= 0		

Unmet Needs, Computation 2

Basic Need for __3__ Persons (aided persons and aided parent's ineligible alien children)	$ 694		
Basic Need for __2__ Persons (aided persons only)	- 560		
Net Income of Child(ren) (Subtotal D)	- 0		
Subtotal E - Unmet Needs, Computation 2 (not less than $ 0)	= 134		

COMPUTATION 3, DEDUCTIBLE UNMET NEEDS

Unmet Needs, Computation 1 (Subtotal C)	$ 50		
Unmet Needs, Computation 2 (Subtotal E)	$ 134		
Deductible Unmet Needs (lesser of Computation 1 or 2)	= 50		

Rules: These rules apply; you may review them at your Welfare Office: MPP 44-133.6

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of Page 1 tells how.